

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IVAN LAGUNA, and
MARGARITA LOPEZ
Plaintiffs

v.

LAZER SAFE, PTY, LTD,
FIESSLER ELECTRONIK GmbH & CO., KG.,
ERMAK USA, INC.,
ERMAKSAN TURKEY, and
ERMAKSAN MAKINA SANAYI VE TICARET A.S., and)
JOHN DOE DISTRIBUTOR
Defendants

)
)
)
)
) C.A. No. 3:23-CV-30016
)
)
)
)
)
)
)
)

**PLAINTIFFS MOTION TO EXTEND TIME FOR SERVICE OF
SUMMONS AND SECOND AMENDED COMPLAINT**

Now come the Plaintiffs and move, to extend time to serve the Summons and Second Amended Complaint upon the Defendants for good cause pursuant to Fed.R.Civ.P. 4, as follows:

FACTS

1.) The Plaintiffs attempted to serve the Summons and First Amended Complaint via certified mail to the Defendant Ermak USA, Inc. to its agent for service, Togai Atac, Agent for Ermak USA, Inc., 770 N La Salle Dr., STE 700, Chicago, IL 60654. (Exhibit 1). This is an accepted “long-arm” method of civil process service in Massachusetts pursuant to Mass.R.Civ.P. 4(e)(3) and M.G.L. ch. 223A section 7.

- 2.) The Summons and First Amended Complaint were mailed by certified mail from Boston on March 13, 2023; the USPS Tracking Number is 70183090000169325756. (Exhibit 2).
- 3.) As of today, by checking USPS tracking, the mail has not been delivered to the address. A check on the USPS web site tracking order provides the following, “Latest Update: The delivery of your item has not been updated as of March 23, 2023, 2:56 am. We apologize that it may arrive later than expected.” There is also a notation “...Alert, Awaiting Delivery Scan, March 23, 2023, 2:56 a.m.” (Exhibit 3). The delay in serving the Summons and First Amended Complaint was not caused by the Plaintiffs.
- 4.) Pursuant to Fed. R.Civ.P. 4(m), the Plaintiffs have shown “good cause” for their efforts in serving the First Amended Complaint upon Ermak USA, Inc. within 90 days.
- 5.) The Plaintiffs have recently filed a Second Amended Complaint addressing naming issues required for international service. The allegations against Ermak USA, Inc. remain unchanged. The Plaintiffs request that the Court extend the time for service for an additional 90 days to serve the Second Amended Complaint upon Ermak USA, Inc..
- 6.) The Plaintiffs have arranged with a private third party service, Civil Action Group, Ltd., APS International Plaza, 7800 Glenroy Road, Minneapolis, MN 55439-3122 to translate and serve the Second Amended Complaint to the foreign international Defendants, Lazer Safe, Pty, Ltd., (Australia), Fiessler Elektronik, GmbH & Co., KG, (Germany), Ermaksan Turkey a/k/a Ermaksan Makina Sanayi Ve Ticaret A.S.(Turkey).
- 7.) Pursuant to Fed. R.Civ.P. 4(f) and 4(h)(2) the service to the foreign corporate entities are to be served through the Hague Service Convention. The Plaintiffs have been informed that the service process through the Hague Service Convention, may take as long as 12

months. The Plaintiffs request an extension of twelve months to serve the foreign Defendants through the Hague Service Convention or other appropriate means of service.

CONCLUSION:

For the above-stated reasons, the Plaintiffs have demonstrated their active and consistent efforts to serve the Summons and Second Amended Complaint upon the known Defendants. These efforts establish the good cause for the delay necessary to serve the Defendant located within the United States and the Defendants located in foreign countries pursuant to Fed.R.Civ.P. 4, and the Court should allow the request of the Plaintiffs to extend the time to serve the Summons and Second Amended Complaint in this action.

Respectfully Submitted,

/s/ Michael J. Mascis

Richard J. Sullivan, Esq.
BBO# 554085
Michael J. Mascis, Esq.
BBO# 541772
SULLIVAN & SULLIVAN, LLP
83 Walnut Street
Wellesley, MA 02481
(781) 263-9400
rsullivan@sullivanllp.com
mmascis@sullivanllp.com

Certificate of Service

I, Michael J. Mascis, attorney for the Plaintiffs, hereby certify that there has not yet been service of the Summons and Second Amended Complaint, and none of the Defendants has appeared in this action to this point in the litigation. Therefore, there are not yet any parties upon which to serve this motion.

/s/Michael J. Mascis

Michael J. Mascis